

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:24-mj-00033-WCM

UNITED STATES OF AMERICA )

v. )

SHAWN PIERRE BERNE )  
\_\_\_\_\_ )

**ORDER**

This matter is before the Court on Defendant’s “Second Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (the “Motion,” Doc. 15), which requests that the Court “permit the Defendant to waive his rights to a speedy trial and the right to have said charges presented to a Grand Jury within 30 days pursuant to 18 U.S.C. § 3161.” Id. at 1.

On August 27, 2024, a criminal complaint was filed, charging Defendant with one violation of 18 U.S.C. § 2423(b) (travel with intent to engage in illicit sexual conduct). Doc. 1.

Defendant was arrested on August 28, 2024 and made an initial appearance on August 30, 2024.

On September 13, 2024, Defendant filed a “Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (the “First Motion for Waiver of Speedy Trial,” Doc. 12).

On September 16, 2024, Defendant filed an amended “Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (the “Amended First Motion for Waiver of Speedy Trial,” Doc. 13).

On September 17, 2024, the Court denied the First Motion for Waiver of Speedy Trial as moot, granted the Amended First Motion for Waiver of Speedy Trial, and extended the deadline for the Government to file a bill of indictment or information to and including October 11, 2024. Doc. 17.

An information or indictment charging an individual with the commission of an offense must be filed within thirty days from the date on which the individual was arrested or served with a summons in connection with such charge. 18 U.S.C. § 3161(b). A motion seeking an extension of that deadline may be allowed where the court finds “that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A); see also United States v. Mathurin, 690 F.3d 1236, 1241–42 (11th Cir. 2012) (“It is clear Congress specifically contemplated the possibility that one or both parties, for reasons not listed in the Act, might need more than thirty days before an information or indictment could be filed. For those cases, it established a specific procedure by which a court would have to approve the delay based on on-the-record ‘findings that the ends of justice served by taking such [a delay] outweigh the

best interest of the public and the defendant in a speedy trial.”).

Here, the Motion seeks an extension of the Government’s filing deadline until November 8, 2024, and states that the impacts of Hurricane Helene, which hit Western North Carolina on September 26 and 27, have prevented defense counsel from meeting with Defendant. Doc. 15 at 2. However, the Motion further indicates that “after consulting with defense counsel, the Defendant intends to waive his right to a Speedy Trial and the right to have his charges presented to a Grand Jury within 30 days from arrest on the Criminal Complaint.” Id. at 3. Finally, the Motion represents that “the parties are working toward a pre-indictment resolution of this matter.” Id.

After consideration of the Motion and a review of applicable authorities, including the factors appearing in 18 U.S.C. § 3161(h)(7)(B), the Court finds and concludes pursuant to 18 U.S.C. § 3161(h)(7)(A) that the ends of justice served by extending the deadline for the Government to file a bill of indictment or information outweigh the best interests of the public and Defendant in a speedy trial, and that this delay should be excluded from Speedy Trial Act computations.

**IT IS THEREFORE ORDERED THAT:**

1. The “Second Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (Doc. 15) is **GRANTED**; and,
2. The deadline for the Government to file a bill of indictment or information in this case is **EXTENDED** to and including **Friday, November 8, 2024**.

Signed: October 11, 2024

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf  
United States Magistrate Judge

